

40 KAR 2:010. Recreational and retirement use land, disclosure costs.

RELATES TO: KRS 367.472, 367.480

STATUTORY AUTHORITY: KRS 367.480

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessitated by KRS 367.480, which requires the Attorney General to promulgate rules and administrative regulations which will ensure an adequate disclosure to the purchaser of recreational and retirement use land the probable costs of any necessary maintenance or improvements of such land which may accrue in the future.

Section 1. Disclosures. Any subdivider of recreation and retirement use land as defined by KRS 367.472 shall give a full and complete disclosure to the purchaser of a lot, parcel, unit or other interest thereof of any probable costs of any necessary maintenance or improvements of said land which may accrue in the future. Said disclosure must be made both orally and in writing prior to the signing of a contract or agreement to purchase. Said disclosure shall include but is not limited to:

(1) The probable costs for each of the following:

(a) Maintenance of improvements;

(b) The cost of taxes for the property as of the date the contract or agreement to purchase is signed, as well as any tax increases that will occur or which there is reasonable cause to believe could occur within the next five (5) years;

(c) The cost of any assessments to the property at the time the contract or agreement to purchase is signed, as well as a reasonable projection of increases in such assessments which could occur within the next five (5) years;

(d) Cost of repairs and other improvements;

(2) Whether any maintenance of improvements costs, taxes, assessments, repair or other improvement costs are being assumed or borne by the subdivider at the time the solicitation for sale is made and, if so, the amount assumed by the subdivider for each such item, the date the subdivider will no longer assume or bear said costs, and those who will assume or bear such costs once the subdivider is no longer liable;

(3) Whether any person or persons, as defined by KRS 367.472(3), other than the subdivider, assumes or bears any maintenance costs, taxes, assessments, repair or improvement costs at the time the solicitation for sale is made and, if so, the amount assumed by this person or persons for each such item, the date this person or persons will no longer assume or bear such costs, and those who will assume or bear such costs once this person or persons is no longer liable;

(4) Whether membership in an organization or association of property owners is required and whether the cost of said association is borne in whole or in part by the subdivider or the purchaser. If such costs are borne in whole or in part by the subdivider, the subdivider must disclose:

(a) The amount of costs being borne by the subdivider and the amount being borne by the purchasers;

(b) The amount of cost to the purchaser when the subdivider stops bearing the costs;

(c) The date on which the subdivider will stop bearing the costs;

(d) The number of property owners and/or association members upon which this cost figure is based;

(5) Any projection of cost that has been made or can reasonably be made for future repairs or improvements to the property within the next five (5) years which will be paid directly or indirectly by the purchaser;

(6) Whether future development and/or construction is anticipated by the subdivider and whether said development and/or construction can reasonably be expected to result directly or indirectly in added costs for maintenance of improvements, taxes, assessments, repairs or other improvements

to a property owner. If additional costs are anticipated, the subdivider must disclose:

- (a) Whether these costs will be borne in whole or in part by the subdivider;
- (b) The amount of costs being borne by the subdivider;
- (c) The date on which the subdivider will stop bearing the cost;
- (d) The amount of the costs to the purchaser for the next five (5) years;
- (e) The number of property owners upon which this cost figure is based;
- (7) Any other costs or fees assessed directly or indirectly to the purchaser for maintaining the property that can be reasonably anticipated by the subdivider for the next five (5) years.

Section 2. The subdivider shall file with the Office of the Attorney General, Division of Consumer Protection, a copy of the written disclosures required by Section 1 of this regulation. The subdivider is required to keep current the information on which the disclosures required by Section 1 of this regulation are based and shall immediately notify the division of any material changes in the information contained in the disclosure and shall make appropriate amendment of the written and oral disclosure statements.

Section 3. Penalties. Any person who fails to make the oral and written disclosures required by Section 1 of this regulation shall be subject to prosecution pursuant to KRS 367.484. (10 Ky.R. 949; Am. 11 Ky.R. 52; eff. 7-1-84.)